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Justice Aide Tells House Panel Death Penalty Is a Deterrent

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WASHINGTON, March 9—A representative of the Justice Department defended the practice of capital punishment today before a Congressional panel although he said he personally abhorred it.

Henry E. Petersen, Assistant Attorney General in the Criminal Division, testified before a House Judiciary subcommittee that he believed in the deterrent value of the death penalty in certain instances but added, "I would not be an executioner."

"Here I am arguing in support of capital punishment, but I abhor it," Mr. Petersen said.

In an interview afterward, Mr. Petersen compared capital punishment to the use of wiretapping by law enforcement officers. "If it were a better world, we wouldn't need either," he said.

His comments came as the House began its first hearings on the death penalty since 1960. The Senate held hearings in 1968. In both instances legislation was never reported out of committee.

The current testimony concerns measures that would either abolish the death penalty outright—thus, in effect, commuting the death sentences for 582 prisoners in 34 states—or impose a moratorium for two years while Congress studies the issue.

Sources on the committee said the panel was more likely to act favorably on the moratorium proposal than on the abolition bills, although there

was some sentiment for abolition.

Arguing that capital punishment constituted "ritual slaughter," Anthony Amsterdam, a Stanford University law professor, said, "Most of those who die are black; virtually all are poor and powerless, personally ugly and socially unacceptable."

Mr. Amsterdam, who has long been connected with efforts to abolish capital punishment, estimated that if the Supreme Court upheld the death penalty there would be 100 executions within a year.

Mr. Amsterdam is one of several lawyers who have argued before the Supreme Court on four pending cases in which the petitioners seek to have the death penalty declared unconstitutional.

He argued today that the death penalty "serves no legitimate social function," citing studies to show that it does not have either a deterrent or a "retributive" effect.

The third witness of the day, Jack Greenberg, produced figures to support his argument that "invidious racial discrimination is responsible for the fate of many of those under sentence of death, and other unacceptable arbitrary factors for most of the others."

Mr. Greenberg, who represented the N.A.A.C.P. Legal Defense and Educational Fund, Inc., said that a resumption of capital punishment "must fairly be seen as an expression of racial genocide."